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5

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,272	10/20/2003	Thaddeus J. Wawro	281_414	2924

20874 7590 07/28/2004
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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/689,272	WAWRO ET AL.	
	Examiner	Art Unit	
	Gail Verbitsky	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Babkes (U.S. 6634789).

For claims 1, 5: Babkes discloses in Figs. 1-2 and 4-5 a device in the field of applicant's endeavor comprising a housing 200 having a calculation unit/ thermometry assembly, a probe 161 that includes at least one temperature responsive element, an isolation chamber 140 for receiving said probe 161, said isolation chamber, along with a module (shroud) 100, is being removable from the housing 200. The device also comprises a first switch assembly for detecting the presence of an object/ module 100 including the isolation chamber in the housing 200 (col. 7, lines 26-28). The first switch assembly comprising two parts (col. 7, line 26) which can be a mechanical switch (col. 7, line 51) enable the housing/ calculating unit/ thermometry assembly 200 to start operating (col. 7, line 42). This would imply, that the thermometry/ circuit board with a processing circuitry contained within the calculation unit 200, operates only when the isolation chamber 140 and the module 100 are attached to the housing 200.

For claim 2: the device comprises a second switch assembly comprising a paddle indicator 145, a button 245. When the second switch assembly is on, the calculation

unit/ thermometry assembly is ready for temperature measurements (col. 5, lines 20-34).

For claim 6: The second switch assembly can be an optical switch (col. 5, line 44).

For claim 3: the fact that both, the first and second, switch assemblies are connected to the calculation unit 200, would imply that the first and second switch assemblies are interconnected by means of the calculation unit 200.

For claim 4: the module 100 is acting as a shroud assembly where the isolation chamber is inserted. As shown in Fig. 2, when the shroud 100 is being attached to the housing 200, it becomes attached to said first switch assembly by means of the button 245 which is a part of the first switch assembly.

For claim 7: the fact that the shroud assembly/ module 100 is connected/ attached to the first switch assembly, and the first switch assembly is connected/ attached to the calculation unit 200 comprising the circuit board with the processing circuitry, would imply that the shroud assembly is also connected/ attached to the circuit board.

For claim 8: Babkes discloses, as shown in Fig. 4, a rubber cover 246 to create a watertight (fluid tight) seal. Therefore, the watertight seal is provided when the isolation chamber is attached (or not).

For claims 9-12: the method steps will be met during the normal operation of the device stated above.

Inventorship

Art Unit: 2859

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky

Primary Patent Examiner, TC 2800



July 15, 2004